

Serial No.: 10/074,262

Confirmation No.: 5027

Filed: 12 February 2002

For: METHODS OF REDUCING SKIN IRRITATION ASSOCIATED WITH SHAVING

Remarks

The Office Action mailed 19 May 2004 has been received and reviewed. Claims 1, 20, 25, 32, 33, and 39 having been amended, the pending claims are claims 1-45. Claims 12-14, 32, 34, and 36 having been withdrawn from consideration, the claims currently under examination are claims 1-11, 15-31, 33, 35, and 37-45. Reconsideration and withdrawal of the rejections are respectfully requested.

Information Disclosure Statement

Applicants respectfully submit that the foreign and other documents submitted under cover of an Information Disclosure Statement on 11 June 2002 were received at the U.S. Patent and Trademark Office by evidence of a return receipt stamped postcard (a copy enclosed herewith), which listed the following contents: Information Disclosure Statement (2 pgs), copies of 2 applications; 1449 forms (6 pgs); copies of 115 documents cited on the 1449 form; Communication Re: Change of Address (1 pg); and transmittal document in triplicate.

Applicants are confused by the fact that these documents were not attached to the file. However, Applicants understand that papers can be misplaced and have attached herewith courtesy copies of the requested documents for the Examiner's review. In a telephone conference on 22 July 2004 between Examiner Lauren Wells and Rachel Gagliardi-Grabau of Muetting, Raasch, and Gebhardt, Examiner Wells indicated that she would consider the documents provided herewith based on the evidence of receipt of the original Information Disclosure Statement with the U.S. Patent Office. Applicants respectfully request that the Examiner initial and return the 1449 forms with the next Official Communication.

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The 35 U.S.C. §112, Second Paragraph, Rejection

The Examiner rejected claims 1-13 and 15-31 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner alleged (in the previous Office Action) that the term "derivative" in claims 1 (D and E), 15 (lines 5, 6, and 7), and 20 (D and E) is vague and indefinite, as the metes and bounds of these claims are unascertainable. Further, the Examiner also alleged that the term "major" in claim 25 (line 3) is a relative term, which renders the claim indefinite.

With respect to both terms, the Examiner is respectfully requested to note that the specification does provide information sufficient for one of ordinary skill in the art to be apprised of their respective meanings.

The term "derivative" is defined through example, particularly in the description of classes 8 (page 21), 11 (page 23), and 13 (page 25), for example. It is respectfully submitted that "derivative" must be read in context, for example, as "polyalkoxylated derivative," which one of skill in the art would understand upon reading Applicants' specification.

Class 11 describes esters and ethers of polyhydric alcohols and polyalkoxylated derivatives thereof at page 23, lines 6-24. Such derivatives are described at page 23, lines 20-24 (esters and ethers of polyethoxylated polyhydric alcohols) and exemplified by polyethoxylated glycerol monostearate, polyethoxylated penta erythritol behenate, and polyethoxylated propylene glycol monostearate. Page 25, lines 8-10, describes fatty acid esters of sorbitan and its polyethoxylated derivatives as well as polyethoxyethylene derivatives of mono and poly-fatty esters. Class 8 at page 21 describes polyethoxylated and/or polypropoxylated alcohols and esters and derivatives thereof. Such exemplification is sufficient for one of skill in the art to understand the use of the term "derivative" when read in context.

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Also, "a major" amount is clear to one of skill in the art. Even though it is a relative term, it is not without definition. The major component is the one present in the largest amount. Simply because it could encompass numerous specific amounts, does not make the claim language unascertainable to one of skill in the art. Logically, in contrast to the statement in the Office Action, it could not encompass "any" amount, because it has to be present in an amount that is more than the other components of the composition. Regardless of what the specific amount is, one of skill in the art can determine whether a component is present in a major amount in a composition without undue burden.

Reconsideration and withdrawal of these rejections are respectfully requested.

The 35 U.S.C. §103 Rejection

The Examiner rejected claims 1-5, 7-11, 15-31, 33, 35, and 38-45 under 35 U.S.C. §103(a) as being unpatentable over Mohammadi et al. (U.S. Patent No. 6,503,517) in view of Bell et al. (U.S. Patent Publication No. 2003/0113357). The Examiner also rejected claims 6 and 37 under 35 U.S.C. §103(a) as being unpatentable over Mohammadi et al. (U.S. Patent No. 6,503,517) in view of Bell et al. (U.S. Patent Publication No. 2003/0113357) as applied to claims 1-5, 7-11, 15-31, 33, 35, and 38-45 above, and further in view of Asmus et al. (U.S. Patent No. 6,090,395). These rejections are respectfully traversed.

None of the cited documents, taken alone or in any combination, teach or suggest a method of shaving skin and applying a recited composition before, during, and/or after shaving, nor that such method would reduce skin irritation associated with shaving.

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Summary

It is respectfully submitted that the pending claims 1-45 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
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August 19, 2004
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CERTIFICATE UNDER 37 CFR §1.10::

"Express Mail" mailing label number: EV 405 490 562 US

Date of Deposit: August 19, 2004

I hereby certify that the Transmittal Letter and the paper(s) and/or fee(s), as described hereinabove, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to the Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Sve Ambroske
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